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*Attorneys for Defendants Responsive Surface  
Technology, LLC, PatienTech, LLC and Robert Golden*

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

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PURPLE INNOVATION, LLC,  
  
Plaintiff,

v.

RESPONSIVE SURFACE TECHNOLOGY,  
LLC; PATIENTECH, LLC; ROBERT  
GOLDEN; et al.

Defendants.

**DECLARATION OF  
STEPHEN P. HORVAT**

**Case No. 2:20-cv-00708-RJS-CMR**

**Judge Robert J. Shelby**

**Magistrate Cecilia M. Romero**

I, Stephen P. Horvat, hereby declare:

1. I am an attorney admitted to practice in the State of Utah and before this Court. I am a member of the law firm of Anderson & Karrenberg, and counsel of record for Defendants Responsive Surface Technology, LLC, PatienTech, LLC and Robert Golden. I have represented the Defendants in this matter since March 2023. Unless otherwise stated, I have personal knowledge of the matters stated herein.

2. Exhibit 1 to the Appendix of Exhibits to Defendants' Motion to Vacate Arbitration Award ("Appendix") is a true and correct copy of Arbitration Exhibit 211, the Escrow Agreement signed by the parties in early January 2020 and produced by Purple in the arbitration.

3. Appendix Exhibit 2 is a true and correct copy of Arbitration Exhibit 1, the parties' "Master Vendor Supply and Services Agreement," or "MSA," entered into on January 13, 2020, filed by Purple under seal on November 23, 2020, as Exhibit 1 to Purple's Motion for Temporary Restraining Order. (ECF 17.)

4. Appendix Exhibit 3 is a true and correct copy of Arbitration Exhibit 100, produced by Purple in the arbitration.

5. Appendix Exhibit 4 is a true and correct copy of Arbitration Exhibit 2311, produced by Purple in the arbitration.

6. Appendix Exhibit 5 is a true and correct copy of Arbitration Exhibit 1028, produced by Purple in the arbitration.

7. Appendix Exhibit 6 is a true and correct copy of Arbitration Exhibit 2322, produced by Purple in the arbitration.

8. Appendix Exhibit 7 is a true and correct copy of Arbitration Exhibit 2214, produced by Purple in the arbitration.

9. Appendix Exhibit 8 is a true and correct copy of Arbitration Exhibit 92, produced by Purple in the arbitration.

10. Appendix Exhibit 9 is a true and correct copy of Arbitration Exhibit 2357, produced by Purple in the arbitration.

11. Appendix Exhibit 10 is a true and correct printout of Arbitration Exhibit 2455, an Excel file produced by Purple in the arbitration.

12. Appendix Exhibit 11 is a true and correct copy of Arbitration Exhibit 226, produced by ReST and used as a deposition exhibit in the arbitration.

13. Appendix Exhibit 12 is a true and correct copy of Arbitration Exhibit 2457, produced by ReST in the arbitration.

14. Appendix Exhibit 13 is a true and correct copy of Arbitration Exhibit 60, produced by Purple in the arbitration.

15. Appendix Exhibit 14 is a true and correct copy of Arbitration Exhibit 75, produced by Purple in the arbitration.

16. Appendix Exhibit 15 is a true and correct copy of Arbitration Exhibit 2291, produced by Purple in the arbitration.

17. Appendix Exhibit 16 is a true and correct copy of Arbitration Exhibit 2392R, produced by Purple in the arbitration.

18. Appendix Exhibit 17 is a true and correct copy of Arbitration Exhibit 111, produced by ReST and used as a deposition exhibit in the arbitration.

19. Appendix Exhibit 18 is a true and correct copy of Arbitration Exhibit 2379, produced by Purple in the arbitration.

20. Appendix Exhibit 19 is a true and correct copy of Arbitration Exhibit 2387, produced by Purple in the arbitration.

21. Appendix Exhibit 20 is a true and correct copy of Arbitration Exhibit 2388, produced by Purple in the arbitration.

22. Appendix Exhibit 21 is a true and correct copy of Arbitration Exhibit 123, produced by Purple in the arbitration.

23. Appendix Exhibit 22 is a true and correct copy of Arbitration Exhibit 1032, produced by Purple in the arbitration.

24. Appendix Exhibit 23 is a true and correct copy of Arbitration Exhibit 12, produced by Purple in the arbitration.

25. Appendix Exhibit 24 is a true and correct copy of Arbitration Exhibit 2411, produced by Purple in the arbitration.

26. Appendix Exhibit 25 is a true and correct copy of Arbitration Exhibit 2450, produced by Purple in the arbitration.

27. Appendix Exhibit 26 is a true and correct copy of Arbitration Exhibit 16, produced by Purple in the arbitration.

28. Appendix Exhibit 27 is a true and correct copy of Arbitration Exhibit 2422, produced by Purple in the arbitration.

29. Appendix Exhibit 28 is a true and correct copy of Arbitration Exhibit 2423, produced by Purple in the arbitration.

30. Appendix Exhibit 29 is a true and correct copy of Arbitration Exhibit 2, used produced by Purple in the arbitration.

31. Appendix Exhibit 30 is a true and correct copy of Arbitration Exhibit 114, produced by ReST and used as a deposition exhibit in the arbitration.

32. Appendix Exhibit 31 is a true and correct copy of the official unredacted transcript of the Court's hearing in this matter on January 6, 2021.

33. Appendix Exhibit 32 is a true and correct copy of Purple's Statement of Claims, dated December 30, 2021, filed by Purple in the arbitration.

34. Appendix Exhibit 33 is a true and correct copy of Respondents' Amended Statement of Counterclaims, dated March 27, 2023, filed by ReST in the arbitration.

35. Appendix Exhibit 34 is a true and correct copy of the email from ReST's counsel to the Arbitrator, copied to Purple's counsel, on December 14, 2021, including the exhibit attached thereto.

36. Appendix Exhibit 35 is a true and correct copy of Procedural Order 1, issued in the arbitration.

37. Appendix Exhibit 36 is a true and correct copy of Procedural Order 4 issued in the arbitration.

38. Appendix Exhibit 37 is a true and correct copy of Procedural Order 14 issued in the arbitration.

39. Appendix Exhibit 38 is a true and correct copy of Procedural Order 17, issued in the arbitration.

40. Appendix Exhibit 39 is a true and correct copy of the motions Purple filed in the arbitration on April 24, 2023.

41. Appendix Exhibit 40 is a true and correct copy of Procedural Order 19 issued in the arbitration.

42. Appendix Exhibit 41 is a true and correct copy of Procedural Order 25 issued in the arbitration.

43. Appendix Exhibit 42 is a true and correct copy of Defendants' Response to Order to Show Cause, filed in the arbitration on June 5, 2023.

44. Appendix Exhibit 43 is a true and correct copy of Defendants' Motion for Leave to File Motion to Exclude Testimony of Rob Wallace, filed in the arbitration on June 21, 2023.

45. Appendix Exhibit 44 is a true and correct copy of Procedural Order 27 filed in the arbitration.

46. Appendix Exhibit 45 is a true and correct copy of Claimant's Prehearing Brief filed in the arbitration on July 17, 2023.

47. Appendix Exhibit 46 is a true and correct copy of Respondents' Pre-Hearing Brief, filed in the arbitration on July 17, 2023.

48. Appendix Exhibit 47 is a true and correct copy of a portion of the transcript of the first day of the arbitration hearing (July 31, 2023).

49. Appendix Exhibit 48 is a true and correct copy of the Confirmation of Purple Claims filed by Purple in the arbitration on July 28, 2023.

50. Appendix Exhibit 49 is a true and correct copy of the Interim Award on Liability and Damages issued in the arbitration on December 18, 2023.

51. Appendix Exhibit 50 is a true and correct copy of Claimant's Submission Regarding Fees, Costs, and Interest, filed in the arbitration on January 5, 2024.

52. Appendix Exhibit 51 is a true and correct copy of Respondents' Submission re Allocation of Fees and Costs, filed in the arbitration on January 5, 2024.

53. Appendix Exhibit 52 is a true and correct copy of an email I received from the Arbitrator on January 6, 2024.

54. Appendix Exhibit 53 is a true and correct copy of Claimant's Appendix of Fees and Costs, filed in the arbitration on January 5, 2024.

55. Appendix Exhibit 54 is a true and correct copy of Claimant's Revised Fee and Cost Appendix, filed in the arbitration on January 10, 2024.

56. Appendix Exhibit 55 is a true and correct copy of Respondents' Response to Purple's Fee and Cost Submissions, filed in the arbitration on January 12, 2024.

57. Appendix Exhibit 56 is a true and correct copy of an email I received from the Arbitrator on January 14, 2024.

58. Appendix Exhibit 57 is a true and correct copy of Respondents' Summary of Authorities Regarding Attorney Fees and Costs, filed in the arbitration on January 19, 2024.

59. Appendix Exhibit 58 is a true and correct copy of the Final Award issued in the arbitration on March 8, 2024.

60. Appendix Exhibit 59 is a true and correct copy of Arbitration Exhibit 2475, a set of still images taken from the archived version of restperformance.com and submitted as an exhibit in the arbitration.

61. Appendix Exhibit 60 contains a hyperlink to the archived version of performance.com, showing the website as it existed on March 1, 2016, and June 26, 2020.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on this 19th day of April, 2024.

/s/ Stephen P. Horvat  
Stephen P. Horvat